

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

MARK FRANKLIN JR.,

Case No. 23-CV-2379 (NEB/DTS)

Petitioner,

v.

ORDER ON REPORT AND
RECOMMENDATION

WILLIAM BOLIN,

Respondent.

A jury found Mark Franklin Jr. guilty of two counts of third-degree murder, two counts of criminal vehicular homicide, and two counts of criminal vehicle operation. *State v. Franklin, Jr.*, No. 27-CR-19-25910, 2020 WL 13597674, at *1-3 (Minn. Dist. Ct. Nov. 9, 2020). Franklin petitioned this Court for a writ of habeas corpus under 28 U.S.C. Section 2254, alleging six grounds for relief: (1) the State withheld material evidence favorable to his defense; (2) the trial court erred by not suppressing his post-Miranda statements to the police; (3) the State's verdict was against the great weight of the evidence; (4) he was denied effective assistance of counsel at trial; (5) the State used improper methods during closing argument; and (6) the State used false evidence at trial. (ECF No. at 5-12.) Respondent moved to dismiss the petition. (ECF Nos. 6, 7.) In a Report and Recommendation, United States Magistrate Judge David T. Schultz recommends

granting Respondent's motion, denying Franklin's petition, and not granting a Certificate of Appealability. (ECF No. 14 ("R&R").)

Because Franklin objects to the R&R, (ECF No. 15), the Court reviews the R&R *de novo*. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). Franklin proceeds *pro se*, so the Court construes his objections liberally. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam).

The Court has undertaken a *de novo* review and concludes that the analysis and conclusions in the R&R are correct. Therefore, based on all the files, records, and proceedings in this case, IT IS HEREBY ORDERED THAT:

1. Franklin's Objection (ECF No. 15) is OVERRULED;
2. The Report and Recommendation (ECF No. 14) is ACCEPTED;
3. The Motion to Dismiss (ECF No. 6) is GRANTED;
4. The Petition for Writ of Habeas Corpus (ECF No. 1) is DENIED;
5. The action is DISMISSED WITH PREJUDICE; and
6. No certificate of appealability be issued.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: October 3, 2024

BY THE COURT:

s/Nancy E. Brasel
Nancy E. Brasel
United States District Judge